IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4264 of 1998

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE C.K.THAKKAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

---

RAVJIBHAI BHIL

Versus

AHMEDABAD MUNICIPAL CORPORATION

---

Appearance:
MRS VASAVDATTA BHATT for Petitioner
MR HS MUNSHAW for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2, 3

---

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE C.K.THAKKAR

Date of decision: 15/03/2000

CAV JUDGEMENT

Per: D.M. Dharmadhikari, C.J. :-

Rule. Learned counsel Mr. Munshaw for the respondents, waives service of rule.

2. This petition, describing it as Public Interest Litigation has been filed by the President of Registered Non-trading Society called " Adivasi Sava Mandir ". The Society claims to have been formed to promote and protect the interest of weaker sections of the society, and more particularly Scheduled Tribes.

3. By this petition, the petitioner Society complains that, certain posts in Ahmedabad Municipal Transport Service in Ahmedabad Municipal Corporation which are reserved for SC/ST candidates have been filled by appointment of general candidates. Specific instances have been quoted regarding posts such as Dy. Transport Manager (General), Driver-Inspector and Chief Traffic Superintendent. Learned Sr. counsel appearing for the petitioner Society submitted that, the candidates belonging to reserved category have not been appointed against the reserved posts on an unsubstantial ground that the candidates were not suitable, or that, they lacked prescribed length of experience. It is pointed out that, there are standing circulars with regard to the reservation policy. If, for any reserved post adequate number of candidates with experience are not available, the authorities as employers are advised to waive the requirement of experience.

4. Learned counsel also contends that, where in one selection process candidates of general category and reserved category are simultaneously considered for appointment, the candidates of reserved category have no chance of selection, because they can never be compared with the candidates from general category. Such is not the intention of the reservation policy. Attention of the Court is invited to the decision of the Supreme Court in case of R.K. SABARWAL AND ORS VS. STATE OF PUNJAB AND ORS, A.I.R. 1995, S.C. 1371.

5. On behalf of the AMC, a detailed reply on affidavit has been filed to demonstrate that, against the reserved post for different categories a sincere attempt was made to fill the post by recruiting or appointing the candidates available from the S.T. quota, but the posts could not be filled and had to be filled on temporary basis by appointing candidates from general category. On behalf of the Corporation learned counsel strenuously urged by taking this Court through the detailed reply

filed in respect of each of the posts mentioned above to show that, either there were no S.T. candidates available, and those few who were available, did not satisfy the norms and criteria laid down for recruitment or promotion.

6. To the reply submitted by the Corporation, petitioner Society has filed a counter reply on affidavit disputing the stand taken on behalf of the Corporation. It is disputed that, some of the available candidates in Corporation's services were either not fulfilling the norms or were not suitable for the appointments.

7. After hearing learned counsel appearing for the parties, and after going through the relevant part of the averments in the petition, the reply and counter reply submitted by them; this Court is of the opinion that, on the facts before us no case is made out for issuance of any orders or directions to the Corporation in the matter of recruitment to available posts in the reserved category.

8. So far as the reservation policy is concerned, the Corporation has not questioned the same, and in fact has tried to demonstrate from the facts mentioned in its reply that, all sincere attempts were made to fill the reserved posts through the candidates of the reserved category. It is only when it was not possible to do so that the posts were filled on temporary basis with the candidates of general category, as the posts were so important they could not have been kept vacant.

9. This Court does not consider it necessary to go into the individual cases of the employees with regard to their suitability or otherwise. In a Public Interest Litigation, it is not possible for the Court to consider the case of an individual employee. It is open to the individual employee to raise a grievance in that behalf if there is enforceable right existing with the concerned employee. No directions of general nature concerning such individuals or candidates can be issued without going into the conditions of the recruitment, qualifications and bio-data of the individual candidates. The petitioner Society in this Public Interest Litigation had approached this Court with a grievance that, reserved posts in the Corporation are being filled by general candidates, ignoring the claims of the candidates of reserved category. From the reply submitted by the Corporation and the documents annexed with it, we do not find that the Corporation has made any attempt to deliberately exclude candidates of reserved category. We

also do not find that the roster system in implementing the reservation policy has not been adhered to by the Corporation. As has been stated by us above, whether a particular employee has wrongly been excluded on the ground of lack of experience or unsuitability is a subject matter of individual grievance and cannot be gone into in a Public Interest Litigation of this nature. The petitioner Society had some justification to approach this Court, as the posts reserved in the Corporation's transport service were manned by members of the general category. As has rightly been said by the learned counsel for the petitioner Society, the Public Interest Litigation has served the purpose of making the Corporation accountable in the matter of its recruitment policy. After having considered the reply of the Corporation, this Court finds no ground to grant any relief to the petitioner Society. The petition therefore fails and is dismissed, with a liberty to the individual employees concerned to take up their individual cases in appropriate forum and in accordance with law. The petition is disposed of. Rule discharged. No order as to costs.

10. In view of aforesaid decision, no order on civil application. No orders on C.A.No. 4269 of 1998.

( D.M. Dharmadhikari, C.J.)

/vgn. ( C.K. Thakkar, J )